

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

PATRICIA WOLFE,

Plaintiff

Vs.

FAIRBANKS CAPITAL CORPORATION,

Defendant

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civil Action NO.

04 10762 DPW

MAGISTRATE JUDGE cohen

PATRICIA WOLFE'S NOTICE OF REMOVAL
TO FEDERAL COURT

RECEIPT # SS289
AMOUNT \$ 10
SUMMONS ISSUED N/A
LOCAL RULE 4.1
WAIVER FORM
MCF ISSUED
BY DPT. CLK. K.O.M
DATE 4/15/04

Patricia Wolfe, Appellee, ["Wolfe"], in the
above styled cause of action removes this case
pursuant to 28 U.S.C. § 1441. This case was
originally filed in the 362 Judicial District Court
of Denton County, Texas as Cause No. 2002-40084-
362. The address of the 362 Judicial District
Court of Denton County, Texas is 1450 East
McKinney, Denton, Texas 76209.

Plaintiff Wolfe is a citizen of Denton County,
Texas and brought this suit against Fairbanks
Capital Corporation ["Defendant"]. All parties
appeared before the District Court. All parties

appeared before the Court of Appeals, Second District of Texas, Fort Worth, Texas 76196.

Plaintiff Wolfe alleged that the Defendant wrongfully collected her monthly payments and misapplied them to her mortgage payments and is doing so created a situation where Plaintiff was always in a position of not fully paying her monthly mortgage payment. In effect, Defendant wrongfully applied her payments and created a situation whereby it could foreclose on Plaintiff's home.

This Court has original jurisdiction over this lawsuit pursuant to 28 U.S.C. § 1331, as it appears on the facts of Plaintiff's complaint that this cause of action arises under the Constitution and the laws of the United States. Removal is proper under 28 U.S.C. § 1441. Additionally, this Court has jurisdiction under United States of America vs. Fairbanks Capital Corporation and Fairbanks Capital Holding Corporation, Civil Action No. 03-12219-DPW

and Alanna L. Curry, et al, Individually and on behalf of all others similarly situated vs. Fairbanks Capital Corporation, Civil Action No. 03-10895-DPW. Wolfe filed her response to the Class Action Claims under Claim No. 15086341 in March 2004. Attached hereto as if set out verbatim as Exhibit 7 is the form provided by the Court.

Wolfe represents that Fairbanks is being served with copies of all pleadings associated with this Notice of Removal. A copy of this Notice of Removal will be filed in the Court of Appeals, Second District of Texas, Fort Worth, Texas.

II.

ATTACHMENTS IN COMPLIANCE WITH 28 U.S.C. § 1446

Exhibit 1 A copy of the docket sheet in the state court action prior to the appeal in this case.

Exhibit 2 Completed Civil Cover Sheet,

Exhibit 3 All Documents filed in the state court action, except discovery material, briefs and Record on Appeal.

Exhibit 4 A separately signed certificate of interested persons.

Exhibit 5 All executed process in the case.

No motions are pending the state appeals court. The mandate is to issue on April 15, 2004 from the court of appeals. The defendant has filed to foreclose on April 6, 2004. Exhibit 6.

Respectfully submitted,



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Attorney For Appellant

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served upon Mr. Mike McKleroy, Esq., Maris & Lanier, 10440 N. Central Expwy., Suite 1450, LB

702, Dallas, TX 75231, by FAX 214-706-0921 and
regular mail on this the 5 day of April 2004.


Frank P. Hernandez